



DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA-2018-0066]

Petition for Extension of Waiver of Compliance

Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that by letter dated March 3, 2023, BNSF Railway (BNSF) petitioned the Federal Railroad Administration (FRA) for an extension of a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 227 (Occupational Noise Exposure). The relevant Docket Number is FRA-2018-0066.

Specifically, BNSF requests to extend its relief from § 227.109, *Audiometric testing program*, to allow employees certified under parts 240 (Qualification and Certification of Locomotive Engineers) and 242 (Qualification and Certification of Conductors) to exceed 1,095 days between audiometric tests if they meet the hearing acuity timelines of §§ 240.217, *Time limitations for making determinations*, and 242.201, *Time limitations for certification*. BNSF seeks continued permission for certified employees to have up to 1,460 days between audiometric tests to alleviate possible employee confusion of having multiple hearing test requirements. In support of its petition, BNSF states that the relief will “reduce the impacts of regulatory overlap” and that the relief is supported by employees.¹ Additionally, BNSF states that it has successfully completed hearing conservation audits in 2009, 2014, 2020, and 2022, and it will “continue to offer annual testing and training in the spirit of the regulation’s intent to provide long-term surveillance and medical oversight” for certified employees.

¹ To support this claim, BNSF cites the comment, dated September 24, 2018, from SMART-TD in the docket at <https://www.regulations.gov/comment/FRA-2018-0066-0004>.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at www.regulations.gov.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted at <http://www.regulations.gov>. Follow the online instructions for submitting comments.

Communications received by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]** will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), the U.S. Department of Transportation (DOT) solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <https://www.transportation.gov/privacy>. See also <https://www.regulations.gov/privacy-notice> for the privacy notice of regulations.gov.

Issued in Washington, DC.

John Karl Alexy,

Associate Administrator for Railroad Safety,

Chief Safety Officer.

[FR Doc. 2023-07575 Filed: 4/10/2023 8:45 am; Publication Date: 4/11/2023]